

the correctness of its assessment base—

- (i) Any unposted debits;
- (ii) Any pass-through reserve balances;
- (iii) 16 $\frac{2}{3}$  percent of the amount computed by subtracting, from the amount specified in paragraph (a)(1)(i) of this section, the sum of:

(A) Unposted debits allocated to demand deposits pursuant to the provisions of paragraph (b)(2) of this section; plus

(B) Pass-through reserve balances representing demand deposits;

- (iv) 1 percent of the amount computed by subtracting, from the amount specified in paragraph (a)(1)(ii) of this section, the sum of:

(A) Unposted debits allocated to time and savings deposits pursuant to the provisions of paragraph (b)(2) of this section; plus

(B) Pass-through reserve balances representing time and savings deposits;

- (v) Liabilities arising from a depository institution investment contract that are not treated as insured deposits under section 11(a)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(8)).

(b) *Methods of reporting unposted credits and unposted debits*—(1) *Unposted credits*. Each insured depository institution shall report unposted credits in quarterly reports of condition for addition to the assessment base in the following manner:

(i) If the institution's records show the total actual amount of unposted credits segregated into demand deposits and time and savings deposits, the institution must report the segregated amounts for addition to demand deposits and time and savings deposits, respectively.

(ii) If the institution's records show the total actual amount of unposted credits but do not segregate the amount as stated in paragraph (b)(1)(i) of this section, the institution must report the total actual amount of the unposted credits for addition to time and savings deposits.

(2) *Unposted debits*. Unposted debits may be reported in the same manner as stated in paragraph (b)(1) of this section for deduction from the assessment base, except that unsegregated

amounts may be reported for deduction only from demand deposits.

(c) *Newly insured institutions*. In the case of a newly insured institution, the assessment base for the last date for which insured depository institutions are required to file quarterly reports of condition within the semiannual period in which the newly insured institution became an insured institution shall be deemed to be its assessment base for that semiannual period. If the institution has not filed such a report by the due date for such reports from insured depository institutions, it shall promptly provide to the Corporation such information as the Corporation may require to prepare the certified statement form for the institution for the current semiannual period.

[59 FR 67163, Dec. 29, 1994]

#### **§ 327.6 Terminating transfers; other terminations of insurance.**

(a) *Terminating transfer*—(1) *Assessment base computation*. If a terminating transfer occurs at any time in the second half of a semiannual period, each surviving institution's assessment base (as computed pursuant to § 327.5) for the first half of that semiannual period shall be increased by an amount equal to such institution's pro rata share of the terminating institution's assessment base for such first half.

(2) *Pro rata share*. For purposes of paragraph (a)(1) of this section, the phrase *pro rata share* means a fraction the numerator of which is the deposits assumed by the surviving institution from the terminating institution during the second half of the semiannual period during which the terminating transfer occurs, and the denominator of which is the total deposits of the terminating institution as required to be reported in the quarterly report of condition for the first half of that semiannual period.

(3) *Other assessment-base adjustments*. The Corporation may in its discretion make such adjustments to the assessment base of an institution participating in a terminating transfer, or in a related transaction, as may be necessary properly to reflect the likely amount of the loss presented by the institution to its insurance fund.

(4) *Limitation on aggregate adjustments.* The total amount by which the Corporation may increase the assessment bases of surviving or other institutions under this paragraph (a) shall not exceed, in the aggregate, the terminating institution's assessment base as reported in its quarterly report of condition for the first half of the semi-annual period during which the terminating transfer occurs.

(b) *Other terminations.* When the insured status of an institution is terminated, and the deposit liabilities of such institution are not assumed by another insured depository institution—

(1) *Payment of assessments; certified statements.* The terminating depository institution shall continue to file certified statements and pay assessments for the period its deposits are insured. Such terminating institution shall not be required to file further certified statements or to pay further assessments after the depository institution has paid in full its deposit liabilities and the assessment to the Corporation required to be paid for the semiannual period in which its deposit liabilities are paid in full, and after it, under applicable law, has ceased to have authority to transact a banking business and to have existence, except for the purpose of, and to the extent permitted by law for, winding up its affairs.

(2) *Payment of deposits; certification to Corporation.* When the deposit liabilities of the depository institution have been paid in full, the depository institution shall certify to the Corporation that the deposit liabilities have been paid in full and give the date of the final payment. When the depository institution has unclaimed deposits, the certification shall further state the amount of the unclaimed deposits and the disposition made of the funds to be held to meet the claims. For assessment purposes, the following will be considered as payment of the unclaimed deposits:

(i) The transfer of cash funds in an amount sufficient to pay the unclaimed and unpaid deposits to the public official authorized by law to receive the same; or

(ii) If no law provides for the transfer of funds to a public official, the trans-

fer of cash funds or compensatory assets to an insured depository institution in an amount sufficient to pay the unclaimed and unpaid deposits in consideration for the assumption of the deposit obligations by the insured depository institution.

(3) *Notice to depositors.* (i) The terminating depository institution shall give sufficient advance notice of the intended transfer to the owners of the unclaimed deposits to enable the depositors to obtain their deposits prior to the transfer. The notice shall be mailed to each depositor and shall be published in a local newspaper of general circulation. The notice shall advise the depositors of the liquidation of the depository institution, request them to call for and accept payment of their deposits, and state the disposition to be made of their deposits if they fail to promptly claim the deposits.

(ii) If the unclaimed and unpaid deposits are disposed of as provided in paragraph (b)(2)(i) of this section, a certified copy of the public official's receipt issued for the funds shall be furnished to the Corporation.

(iii) If the unclaimed and unpaid deposits are disposed of as provided in paragraph (b)(2)(ii) of this section, an affidavit of the publication and of the mailing of the notice to the depositors, together with a copy of the notice and a certified copy of the contract of assumption, shall be furnished to the Corporation.

(4) *Notice to Corporation.* The terminating depository institution shall advise the Corporation of the date on which the authority or right of the depository institution to do a banking business has terminated and the method whereby the termination has been effected (*i.e.*, whether the termination has been effected by the surrender of the charter, the cancellation of its authority or license to do a banking business by the supervisory authority, or otherwise).

(c) *Resumption of insured status before insurance of deposits ceases.* If a depository institution whose insured status has been terminated is permitted by the Corporation to continue or resume

its status as an insured depository institution before the insurance of its deposits has ceased, the institution will be deemed, for assessment purposes, to continue as an insured depository institution and must thereafter furnish certified statements and pay assessments as though its insured status had not been terminated. The procedure for applying for the continuance or resumption of insured status is set forth in § 303.5 of this chapter.

[54 FR 51374, Dec. 15, 1989, as amended at 59 FR 67164, Dec. 29, 1994; 61 FR 64983, Dec. 10, 1996]

**§ 327.7 Payment of interest on assessment underpayments and overpayments.**

(a) *Payment of interest*—(1) *Payment by institutions.* Each insured depository institution shall pay interest to the Corporation on any underpayment of the institution's assessment.

(2) *Payment by Corporation.* (i) The Corporation will pay interest on any overpayment by the institution of its assessment.

(ii) When an institution elects the alternate payment date pursuant to § 327.3(c)(3), or otherwise pays an amount due on a regular payment date before that date, the payment of the invoiced amount prior to the regular payment date shall not be regarded as an overpayment of an assessment.

(iii) When an institution elects the doubled-payment option pursuant to § 327.3(j), the payment of any amount in excess of the invoiced amount shall not be regarded as an overpayment of an assessment.

(3) *Accrual of interest.* (i) Interest on an amount owed to or by the Corporation for the underpayment or overpayment of an assessment shall accrue interest at the relevant interest rate.

(ii) Interest on an amount specified in paragraph (a)(3)(i) of this section shall begin to accrue on the day following the regular payment date, as provided for in § 327.3(c)(2) and (d)(2), for the amount so overpaid or underpaid, provided, however, that interest shall not begin to accrue on any overpayment until the day following the date such overpayment was received by the Corporation. Interest shall continue to accrue through the date on which the

overpayment or underpayment (together with any interest thereon) is discharged.

(iii) The relevant interest rate shall be redetermined for each quarterly assessment interval. A quarterly assessment interval begins on the day following a regular payment date, as specified in § 327.3(c)(2) and (d)(2), and ends on the immediately following regular payment date.

(b) *Rates after the first payment date in 1996.* (1) On and after January 3, 1996, the relevant interest rate for a quarterly assessment interval that includes the month of January, April, July, and October, respectively, is the coupon equivalent yield of the average discount rate set on the 3-month Treasury bill at the last auction held by the United States Treasury Department during the preceding December, March, June, and September, respectively.

(2) The relevant interest rate for a quarterly assessment interval will apply to any amounts overpaid or underpaid on the payment date (whether regular or alternate) immediately prior to the beginning of the quarterly assessment interval. The relevant interest rate will also apply to any amounts owed for previous overpayments or underpayments (including any interest thereon) that remain outstanding, after any adjustments to such overpayments or underpayments have been made thereon, at the end of the regular payment date immediately prior to the beginning of the quarterly assessment interval.

(c) *Rates prior to the first payment date in 1996.* Through January 3, 1996:

(1) The interest rate will be the United States Treasury Department's current value of funds rate which is issued under the Treasury Fiscal Requirements Manual (TFRM rate) and published in the FEDERAL REGISTER;

(2) The interest will be calculated based on the rate issued under the TFRM for each applicable period and compounded annually;

(3) For the initial year, the rate will be applied to the gross amount of the underpayment or overpayment; and

(4) For each additional year or portion thereof, the rate will be applied to the net amount of the underpayment or overpayment after that amount has